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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 180625576-8999-02]

RIN 0648-BJ68

**Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast
Groundfish Fishery; 2019-2020 Biennial Specifications and Management Measures;
Inseason Adjustments**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and
Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; inseason adjustments to biennial groundfish management
measures.

SUMMARY: This final rule announces routine inseason adjustments to the harvest
limits for incidental halibut retention in the primary sablefish fishery.

DATES: Effective [*insert date of publication in the Federal Register*].

FOR FURTHER INFORMATION CONTACT: Karen Palmigiano, phone: 206-526-
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SUPPLEMENTARY INFORMATION:

Electronic Access

This rule is accessible via the Internet at the Office of the Federal Register Web
site at <https://www.federalregister.gov>. Background information and documents are

available at the Pacific Fishery Management Council's website at <http://www.pcouncil.org/>.

Background

The Pacific Coast Groundfish Fishery Management Plan (PCGFMP) and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subparts C through G, regulate fishing for over 90 species of groundfish off the coasts of Washington, Oregon, and California. The Pacific Fishery Management Council (Council) develops groundfish harvest specifications and management measures for two-year periods (*i.e.*, a biennium). NMFS published the final rule to implement harvest specifications and management measures for the 2019–2020 biennium for most species managed under the PCGFMP on December 12, 2018 (83 FR 63970).

In general, the management measures set at the start of the biennial harvest specifications cycle help the various sectors of the fishery reach, but not exceed, the annual catch limit (ACL) for each stock. The Council, in coordination with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California, recommends adjustments to the management measures during the fishing year to achieve this goal. At its March 3-9, 2020, meeting, the Council recommended decreasing the amount of Pacific halibut that vessels in the sablefish primary fishery north of Point Chehalis, Washington (WA) may take incidentally to ensure that catch of Pacific halibut stays within the allocated amount.

The Council developed a Catch Sharing Plan for the International Pacific Halibut Commission (IPHC) Regulatory Area 2A, as provided for in the Northern Pacific Halibut Act of 1982. The Catch Sharing Plan allocates the Area 2A annual total allowable catch

(TAC) for Pacific halibut among fisheries off Washington, Oregon, and California. Pacific halibut is generally a prohibited species for vessels fishing in Pacific coast groundfish fisheries, unless explicitly allowed in groundfish regulations.

Under the Catch Sharing Plan, the primary sablefish fishery north of Point Chehalis, WA (46°53.30' N. lat.) is allocated any excess portion of the Washington recreational allocation above 214,110 lbs [97.1 metric tons (mt)] up to 50,000 pounds [22.7 mt] provided a minimum of 10,000 lbs [4.5 mt] is available. If the Area 2A catch limit is 1.5 million pounds [680.4 mt] or more, the maximum allocation increases to 70,000 lbs [31.8 mt]. If the amount above 214,110 lbs [97.1 mt] is less than 10,000 lbs [4.5 mt] or greater than 50,000 lbs [22.7 mt] (or 70,000 lbs [31.8 mt]), the excess is allocated back to the Washington recreational fisheries.

The sablefish primary fishery season is open from April 1 to October 31, though the fishery may close for individual participants prior to October 31 once they reach the cumulative limit associated with their tier assignment(s). Regulations at § 660.231(b)(3)(iv) allow vessels fishing in the sablefish primary fishery with a permit from the IPHC to retain halibut up to a set landing limit, which may be reviewed and modified throughout the sablefish primary fishery season to allow for attainment but not exceedance of the Pacific halibut allocation.

Recent Incidental Halibut Catch in the Primary Sablefish Fishery

On April 29, 2019, NMFS implemented a 2019 Area 2A Pacific halibut TAC of 1,500,000 lb [680.4 mt] and a 2019 Pacific halibut incidental catch limit of 70,000 lb [31.8 mt] for the limited entry fixed gear sablefish primary fishery north of Point Chehalis, WA (84 FR 17960; April 29, 2019). For the start of the 2019 primary sablefish

fishery, the incidental halibut landing limit was 200 lb [91 kg] dressed weight of halibut, for every 1,000 lb [454 kg] dressed weight of sablefish landed, and up to an additional two halibut in excess of this limit (October 9, 2018; 83 FR 50510). At the June 2019 Council meeting, the Council approved an increase in the landing limit to allow for full utilization of the incidental catch limit. NMFS published a rule on August 2, 2019 (84 FR 37780) that raised the landing limit to 250 lb [113 kg] dressed weight of halibut per 1,000 lb [454 kg] dressed weight of sablefish landed, and up to an additional two halibut in excess of this limit. At the time the Council recommended the 250 lb [113 kg] limit, the model predicted that total Pacific halibut catch in the primary sablefish fishery would be 54,214 lb [24.6 mt], or 77.4 percent of the 2019 incidental limit.

At the March 2020 Council meeting, the Groundfish Management Team (GMT) informed the Council that the sablefish primary fishery north of Pt. Chehalis, WA exceeded its 70,000 lb [31.8 mt] allowance for Pacific halibut in 2019 by 13 percent, or 9,360 lb [4,246 kg]. Incidental catch likely exceeded the limit because there were more trips where vessels were catching a higher percentage of the incidental trip limit after it was raised in August 2019 (Table 1). This table demonstrates a significant shift in the number of trips (from 20 to 44) that retained 75 percent or more of the incidental halibut limit.

Table 1. Number of trips in 2019 by trip limit and percentage of the incidental halibut limit attained.

Incidental Halibut Retention Amount	Vessel Landing by Percentage of the Incidental Halibut Limit			
	0-50 percent	50-75 percent	75-90 percent	90-100 percent
200 lb [91 kg] – limit before August 2019	44	3	7	13
250 lb [113 kg] – limit after August 2019	25	5	14	30

The increase in trips with vessels catching more of the incidental halibut limit once the limit was raised in August 2019 could be indicative of vessels targeting Pacific halibut. The number of trips with vessels catching more than 90 percent of the incidental halibut landing limit increased from 13 trips out of 67 trips (19 percent of trips) before the trip limit was increased to 30 trips out of 104 trips (29 percent of trips) after the trip limit was increased to 250 lb [113 kg]. The modeling efforts that supported the change in the landing limit in 2019 did not accurately predict this change in fishery behavior. In general, due to the volatility in Pacific halibut landings from year-to-year in the primary sablefish fishery (see Table 2), it can be difficult to model projected landings accurately.

Table 2. Incidental halibut limits and landings in the Primary Sablefish Fishery from 2014-2019

	Incidental limit in net weight (lb)	Landings in net weight (lb)	Percent attainment of limit
2019	70,000	79,360	113%
2018	50,000	43,716	87%
2017	70,000	35,866	51%
2016	49,686	29,448	59%
2015	10,348	9,763	94%
2014	14,274	12,067	85%

The 2020 incidental halibut limit for the sablefish primary fishery is 70,000 lb [31.8 mt] (March 13, 2020; 85 FR 14586). If the current incidental halibut limit were to remain in place, the GMT's model projects halibut landings in the sablefish primary fishery north of Point Chehalis, WA would likely exceed the incidental halibut allocation again in 2020. Therefore, industry requested the GMT analyze a lower landing limit to ensure attainment stays within the allocation for halibut in the sablefish primary fishery. The GMT analyzed a limit of 200 lb [91 kg] dressed weight of halibut, for every 1,000 lb

[454 kg] dressed weight of sablefish landed. Under this limit, the highest projected attainment would be 71,500 lb [32.43 mt]. However, this is likely an overestimate as data suggests the lower incidental trip limit will likely deter vessels from targeting halibut while fishing in the primary sablefish fishery. Additionally, the GMT has the ability to track incidental catch of halibut inseason and can recommend the Council adjust the limit through additional inseason action if necessary to ensure the incidental catch of Pacific halibut attains but does not exceed the 2020 allocation.

Therefore, in order to allow incidental halibut catch in the sablefish primary fishery, the Council recommended and NMFS is revising incidental halibut retention regulations at § 660.231(b)(3)(iv) to decrease the incidental halibut catch limit. The limit will be reduced from 250 lb [113 kg] dressed weight of halibut for every 1,000 lb [454 kg] dressed weight of sablefish landed and up to two additional halibut in excess of the 250 lb [113 kg] per 1,000 lb [454 kg] limit per landing to 200 lb [91 kg] dressed weight of halibut for every 1,000 lb [454 kg] dressed weight of sablefish landed and up to two additional halibut in excess of the 200 lb [91 kg] per 1,000 lb [454 kg] limit per landing. We expect that this decrease will allow total catch of Pacific halibut to approach, but not exceed, the 2020 allocation for the sablefish primary fishery north of Point Chehalis, WA (70,000 lb or 31.8 mt) and provide opportunity for industry to attain a high percentage of the sablefish primary fishery allocation.

Classification

This action is taken under the authority of 50 CFR 660.60(c) and the Northern Pacific Halibut Act of 1982 and is exempt from review under Executive Order 12866.

The aggregate data upon which these actions are based are available for public inspection by contacting Karen Palmigiano in NMFS West Coast Region (see **FOR FURTHER INFORMATION CONTACT**, above), or view at the NMFS West Coast Groundfish website:

<http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish/index.html>.

Pursuant to 5 U.S.C. 553(b), NMFS finds good cause to waive prior public notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. The sablefish primary fishery opens on April 1. Management and enforcement of the incidental landing limit will be easier for participants if the new limit is in place for the start of the season, rather than a few weeks in as would be the case if implementation of this rule was delayed. No aspect of this action is controversial, and changes of this nature were anticipated in the final rule for the 2019–2020 harvest specifications and management measures which published on December 12, 2018 (83 FR 63970).

At its March 2020 meeting, the Council recommended the decrease to the incidental halibut retention limit for vessels fishing in the sablefish primary fishery north of Point Chehalis be implemented as soon as possible so that the limit is in place for the start of the fishery on April 1, 2020. New catch data through 2019 that was not available and thus not considered during the 2019–2020 biennial harvest specifications process, projects that maintaining the status quo limit of 250 lb (113 kg) for incidental halibut retention would likely result in the sablefish primary fishery north of Point Chehalis, WA exceeding its 2020 allocation. Reducing the limit will likely result in less targeting than

may have taken place late in 2019 and, therefore, help ensure the 2020 allocation is not exceeded.

Delaying implementation to allow for public comment could result in confusion amongst industry if the new limit is implemented shortly after the start of the season on April 1. Additionally, if the new limit is not implemented until closer to the end of the season after a full rulemaking the sablefish primary fishery north of Point Chehalis would likely exceed its 2020 allocation of halibut. Therefore, providing a comment period for this action could limit the benefits to the fishery, and the vessels that participate in it as they rely on the halibut retention allowance throughout the entire season.

Therefore, the NMFS finds reason to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(1) so that this final rule may become effective upon publication in the **Federal Register**. The adjustments to management measures in this document affect commercial fisheries by decreasing the incidental halibut retention limit in the sablefish primary fishery north of Point Chehalis, WA. This adjustment was requested by the Council's advisory bodies, as well as members of industry during the Council's March 2020 meeting, and recommended unanimously by the Council. No aspect of this action is controversial, and changes of this nature were anticipated in the biennial harvest specifications and management measures established through a notice and comment rulemaking for 2019-2020 (82 FR 63970).

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: March 20, 2020.

Hélène M.N. Scalliet,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

2. In § 660.231, revise paragraph (b)(3)(iv) to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

* * * * *

(b) * * *

(3) * * *

(iv) Incidental Pacific halibut retention north of Pt. Chehalis, WA (46°53.30' N. lat.).

From April 1 through October 31, vessels authorized to participate in the sablefish primary fishery, licensed by the International Pacific Halibut Commission for commercial fishing in Area 2A (waters off Washington, Oregon, California), and fishing with longline gear north of Pt. Chehalis, WA (46°53.30' N. lat.) may possess and land up to 200 pounds (91 kg) dressed weight of Pacific halibut for every 1,000 pounds (454 kg) dressed weight of sablefish landed and up to 2 additional Pacific halibut in excess of the 200-pounds-per-1,000-pound limit per landing.

“Dressed” Pacific halibut in this area means halibut landed eviscerated with their heads on.

Pacific halibut taken and retained in the sablefish primary fishery north of Pt. Chehalis may only be landed north of Pt. Chehalis and may not be possessed or landed south of Pt. Chehalis.

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